



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

AUG. 27 2001

400 Seventh Street, S.W.
Washington, D.C. 20590

Mr. Juan R. Alcaraz Vázquez
Puerto Rico Electric Power Authority
Environmental Protection Division
1110 Ponce de León Avenue
Santurce, PR 00907

Ref. No. 01-0213

Dear Mr. Vázquez:

This is in response to your August 20, 2001, letter, requesting clarification on the transportation of polychlorinated biphenyls (PCBs) under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered as follows:

Q1: Is transportation between Puerto Rico and the continental United States considered domestic transportation?

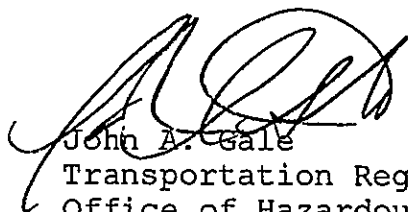
A1: The answer is yes. Section 171.8 defines domestic transportation as transportation between places within the United States other than through a foreign country.

Q2: Are PCBs subject to the HMR when transported by air or water if, as packaged, they do not meet the definition of a hazardous substance or marine pollutant?

A2: The answer is no. According to special provision 140, PCBs are only subject to the HMR when they meet the defining criteria for a hazardous substance or a marine pollutant. This provision applies to all modes of transportation, including air and water.

I hope this satisfies your request.

Sincerely,



John A. Gale
Transportation Regulation Specialist
Office of Hazardous Material Standards

CN 078-04495
REV. 1/01COMMONWEALTH OF PUERTO RICO
PUERTO RICO ELECTRIC POWER AUTHORITY
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§ 172.101 App. B
Marine PollutantsPO Box 364267
San Juan, Puerto Rico 00936-4267

01-0213

August 20, 2001

Mr. Edward Mazzuloo
Director
OHMS

Dear Mr. Mazzuloo:

The Puerto Rico Electric Power Authority has contacted the DOT Hotline regarding interpretations of the newly amended HMR's on PCB's. I have personally talked with Mr. Arthur Pollack one of your specialists. Following is my interpretation of the basic points, which I have discussed with him:

1. Transportation between Puerto Rico and the United States is considered domestic transportation and only DOT HMR's apply.
2. PCB's containing wastes are only regulated, **in any mode of domestic transportation**, when they are a hazardous substance or a Marine Pollutant in a single container (deletion of symbols A and W from the 172.101 Table and addition of special provision 140).
3. Single containers which do not contain a hazardous substance or a Marine Pollutant of PCB's wastes are not HMR regulated **in any mode of domestic transportation** and shall not be labeled or marked (this includes the item itself according to special provision 81).
4. A shipping container containing non-HMR regulated single containers is not HMR regulated, regardless of the amount and aggregate weight of the single containers, and shall not be marked or placarded.

Mr. Edward Mazzuloo

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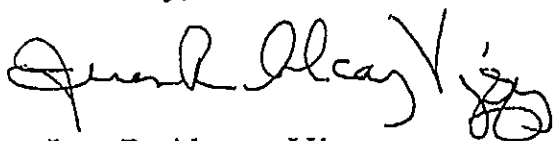
According to one of our contractors a lawyer working for their mainland partners contacted DOT Hotline and interviewed personnel from DOT Headquarters and other DOT offices and from the USCG Marine Safety Division on these matters. Accordingly, they sent us a letter stating that even for domestic transportation all single containers containing PCB wastes at any level (whether or not there is an RQ present) are subject to HMR. We are enclosing a copy of the letter sent to us by our contractor and the document they claim was reviewed and accepted by DOT personnel.

We have a scheduled disposal activity for the beginning of September 2001. If possible, please send us your opinion on these matters in written form within the next 10 business days. You can contact me or my supervisor Freddie Rodriguez at (787) 289-4976 to answer any questions regarding these matters. You can fax the answer to (787) 289-4999. Our mailing address is:

Puerto Rico Electric Power Authority
Environmental Protection Division
Substances and Wastes Management Department
NEOS Building, 7th Floor
1110 Ponce de León Avenue
Santurce, PR 00907

P O Box
364267

Sincerely,



Juan R. Alcaraz Vázquez
Substances and Wastes Management
- Department
Section Supervisor

0009364207



Environics Engineering

July 13, 2001

Eng. Pedro de Cardenas
Puerto Rico Electric Power Authority
GPO Box 364267
San Juan, P.R. 00936

SUBJECT: DOT REGULATIONS

Confirming the letter that we sent via e-mail yesterday , Attorney Cynthia Orms visited the different agencies below that have jurisdiction over sea transportation and marking of hazardous material. Ms. Orms consulted:

- DOT Hot Line (1-800-467-4922). Mr. Ben Supko
- DOT Headquarters - Research and Special Programs-Standards Office, Washington DC (202-366-0656), Ms. Mary Allen. Ms. Allen revised the attached document and accepted it.
- Ms. Allen called the US Coast Guard, Marine Safety Division, Jacksonville, Florida (904-232-2640) and they also revised and accepted the document.
- Ms. Orms also called DOT Southern Region, Office of Enforcement, Atlanta, GA (404-305-8120), Mr. John Henahan. He also agreed with DOT Headquarters' position.

If after revising the attached document, you may still have doubts or questions, please do not hesitate to call our offices or Attorney Cynthia Orms at 703-932-0411, we will be more than glad to discuss them.

Cordially,


Javier C. Santiago
Project Manager

C: George Jackson (TCI)
Tracy Helms (TCI)
Cynthia Orms (TCI)
Freddie Rodriguez (PREPA)

Attachment

ISSUES REGARDING SHIPPING PCBs BY WATER

As per 49 CFR 172.101, PCBs are regulated at any level when shipped over water, so whether or not there is an RQ present in any one container would still subject the material to regulation by DOT. If no container contains one lb or more OF PCBs within the conex or shipping container, then the proper shipping name would be "Polychlorinated Biphenyls, 9, UN2315, PGII solid or liquid." Each individual container and/or transformer/electrical equipment would need to be marked with the proper shipping name including the identification number (UN2315) and a Class 9 label. 49 CFR 172.301(a); 49 CFR 172.400(a)(1).

If any container contains one lb or more of PCBs, then that container must be marked with an RQ along with the proper shipping name as noted above, identification number, and Class 9 label. 49 CFR 172.101 Hazardous Materials Table and Appendix A; 49 CFR 172.301(a); 49 CFR 172.400(a)(1). The shipping papers for that item must also reflect the RQ status. If it is being shipped on the same line as other items, all items on that line would need to reflect the RQ status.

The "Marine Pollutant" label as identified in the below regulations is required for PCBs if the material being shipped in any one container "equals or exceeds one percent by weight of the mixture." and is being transported by vessel. 49 CFR 171.8; 49 CFR 322(d)(3). If the container does meet the above, then it must be marked with a "Marine Pollutant" label. The outside container would need to have "Marine Pollutant" labels on each side of the container.

The Class 9 Placard is not required on the outside of the container (conex) as transportation between Puerto Rico is considered "domestic transportation." 49 CFR 172.504(f)(9).

The identification number, UN2315 only (not the combination 2315/Class 9) would need to be on the freight container (conex) if the shipment meets the following criteria:

- 1) Each package is marked with the same proper shipping name and identification number;
- 2) The aggregate gross weight of the hazardous material is 4,000 kg (8,820 pounds) or more;
- 3) All of the hazardous material is loaded at one loading facility;
- 4) The transport vehicle or freight container contains no other material, hazardous or otherwise.

49 CFR 172.301(a)(3).

171.8 Definitions and Abbreviations

Marine pollutant, means a material which is listed in appendix B to Sec. 172.101 of this subchapter (also see Sec. 171.4) and, when in a solution or mixture of one or more marine pollutants, is packaged in a concentration which equals or exceeds:

- (1) Ten percent by weight of the solution or mixture for materials listed in the appendix; or
- (2) One percent by weight of the solution or mixture for materials that are identified as severe marine pollutants in the appendix.

172.322 Marine pollutants

(a) For vessel transportation of each non-bulk packaging that contains a marine pollutant--

(1) If the proper shipping name for a material which is a marine pollutant does not identify by name the component which makes the material a marine pollutant, the name of that component must be marked on the package in parentheses in association with the marked proper shipping name. Where two or more components which make a material a marine pollutant are present, the names of at least two of the components most predominantly contributing to the marine pollutant designation must appear in parentheses in association with the marked proper shipping name; and

(2) The MARINE POLLUTANT mark shall be placed in association with the hazard warning labels required by subpart E of this part or, in the absence of any labels, in association with the marked proper shipping name.

(b) ~~excluded here~~

(c) A transport vehicle or freight container that contains a package subject to the marking requirements of paragraph (a) or (b) of this section must be marked with the MARINE POLLUTANT mark. The mark must appear on each side and each end of the transport vehicle or freight container, and must be visible from the direction it faces. This requirement may be met by the marking displayed on a freight container or portable tank loaded on a motor vehicle or rail car. This mark may be displayed in black lettering on a white square-on-point configuration having the same outside dimensions as a placard.

(d) The MARINE POLLUTANT mark is not required--

(1) On a combination package containing a severe marine pollutant (see appendix B to Sec. 172.101), in inner packagings each of which contains:

- (i) 0.5 liters (17 ounces) or less net capacity for liquids; or
- (ii) 500 grams (17.6 ounces) or less net capacity for solids.

(2) On a combination packaging containing a marine pollutant, other than a severe marine pollutant, in inner packagings each of which contains:

- (i) 5 liters (1.3 gallons) or less net capacity for liquids; or
- (ii) 5 kilograms (11 pounds) or less net capacity for solids.

(3) Except for transportation by vessel, on a bulk packaging, freight container or transport vehicle that bears a label or placard specified in subparts E or F of this part.

49 CFR 172.301 General marking requirements for non-bulk packagings.

(a) Proper shipping name and identification number. (1) Except as otherwise provided by this subchapter, each person who offers for